

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID E. FIELDS,

Defendant.

Case No. 08-cr-30058-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on defendant David E. Fields's "Motion Under 28 U.S.C. § 2255 & 18 U.S.C. § 3583 Challenging Revocation/Reimposition of Release" (Doc. 120). While the Court believes Fields intends to invoke § 2255 to vacate his revocation sentence, the Court is hesitant to characterize the motion as a § 2255 motion without a clear indication that Fields intends to invoke that statute. "[T]he court cannot so recharacterize a pro se litigant's motion as the litigant's first § 2255 motion unless the court informs the litigant of its intent to recharacterize, warns the litigant that the recharacterization will subject subsequent § 2255 motions to the law's 'second or successive' restrictions, and provides the litigant with an opportunity to withdraw, or to amend, the filing." *Castro v. United States*, 540 U.S. 375, 377 (2003).

Accordingly, the Court **WARNS** Fields that if he does not file a motion to withdraw his pending motion on or before September 26, 2025, the Court will construe it as a § 2255 motion and Fields will then be subject to the second or successive filing restrictions contained in 28 U.S.C. § 2255(h).

**IT IS SO ORDERED.**

**DATED: August 27, 2025**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**